

rated by a nationally recognized rating agency for municipal securities in one of the four highest ranking categories for long term obligations and (ii) reserved in the resolution or order authorizing issuance of such bonds the right, in the event of a change in state law, to substitute a credit agreement in lieu of cash and investments in a reserve fund established pursuant to such resolution or order.

The committee amendment was read and was adopted by a viva voce vote.

S.B. 1567 (Ellis) Relating to the statute of limitations applicable to real property sold for taxes. (31-0) (31-0)

S.B. 1685 (Sibley) Relating to the detection and prevention of prostate cancer. (31-0) (31-0)

S.B. 1695 (Nelson) Relating to emergency management. (31-0) (31-0)

**BILL REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

Number

Senators Removing

C.S.S.B. 1699

Ratliff, Harris

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 8:10 a.m. adjourned until 9:30 a.m. today.

**SIXTY-EIGHTH DAY
(Wednesday, May 10, 1995)**

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by Senator Truan.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

(President in Chair)

Mr. Andrew Bearden, Minister to Youth, St. Matthew's Episcopal Church, Austin, offered the invocation as follows:

Dear Lord, thank You for this new day and thank You for bearing with us when we go astray. Be with Governor Bush, Lieutenant Governor Bullock, and Speaker Laney as they lead, and this body as they deliberate. We pray for the young people in our state. Give these men and women a heart to sense their needs and to prepare for their future. We pray for those who this state is taking care of: the abused, the mentally ill, the blind, the deaf, the needy, and those paying a debt to society. Send people to them who will minister to their deepest needs. We ask all of this according to Your will. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 707

On motion of Senator Rosson and by unanimous consent, Senator Moncrief will be shown as Co-author of **S.B. 707**.

CO-SPONSOR OF HOUSE BILL 280

On motion of Senator Sims and by unanimous consent, Senator Patterson will be shown as Co-sponsor of **H.B. 280**.

CO-SPONSOR OF HOUSE BILL 2245

On motion of Senator Sims and by unanimous consent, Senator Armbrister will be shown as Co-sponsor of **H.B. 2245**.

MESSAGE FROM THE HOUSE

House Chamber
May 10, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 145, Relating to the punishment of theft committed against elderly individuals.

H.B. 179, Relating to the participation of certain defendants in county jail work release programs.

H.B. 334, Relating to the state's official marine education center.

H.B. 341, Relating to an offense for operation of a motor vehicle on a hike and bike trail.

H.B. 375, Relating to billing for an assessment by certain municipalities for expenses incurred in relation to certain neglected property.

H.B. 581, Relating to the offense of failure to identify and to including information on a person who gives a false name to a peace officer in the computerized criminal history system.

H.B. 690, Relating to notices required to be posted by certain applicants for an on-premises alcoholic beverage permit or license.

H.B. 819, Relating to the signature of a notary public on behalf of an individual with a disability.

H.B. 871, Relating to securing a hospital lien.

H.B. 925, Relating to the regulation of geologists and geophysicists; providing civil and criminal penalties.

H.B. 1189, Relating to reporting certain child support payments to a consumer reporting agency.

H.B. 1274, Relating to information about a registered voter that may be obtained by a domestic relations office from state voter registration records.

H.B. 1388, Relating to certain information collected in the jury selection process.

H.B. 1454, Relating to requirements for certain political subdivisions that acquire real property held in trust.

H.B. 1574, Relating to creation of the office of Refugio County district attorney.

H.B. 1619, Relating to the requirement that the holder of a discharged lien on a motor vehicle execute the discharge of the lien.

H.B. 1744, Relating to the appraisal of signs for ad valorem tax purposes.

H.B. 1809, Relating to indemnification of trustees, officers, and employees of retirement systems for police officers in certain municipalities.

H.B. 1846, Relating to the establishment of the El Paso Quadricentennial Commission.

H.B. 1875, Relating to cost-of-living increases paid to annuitants of retirement systems for police officers in certain municipalities.

H.B. 1922, Relating to authorized activities of the holder of a brewer's permit.

H.B. 1924, Relating to the state mileage guide adopted by the comptroller.

H.B. 1930, Relating to the offense of theft of public library property.

H.B. 1976, Relating to the conveyance of certain state-owned real property in Harris County to the City of Bellaire.

H.B. 2023, Relating to illegal fireworks and certain offenses relating to fireworks.

H.B. 2034, Relating to the disbursement of emergency services district funds.

H.B. 2035, Relating to suspension or revocation of a driver's license of a juvenile.

H.B. 2039, Relating to plugging notices of the Railroad Commission of Texas.

H.B. 2042, Relating to civil remedies for certain nuisances.

H.B. 2152, Relating to restrictive covenants in certain residential real estate subdivisions.

H.B. 2275, Relating to the application of the hotel occupancy tax to certain dormitories or other housing facilities.

H.B. 2304, Relating to the availability of the Texas Register and the Texas Administrative Code.

H.B. 2307, Relating to powers and duties of the Advisory Commission on State Emergency Communications and emergency communication districts and to the administration of state emergency communications services.

H.B. 2432, Relating to the day of the week on which the commissioners court of a county may meet.

H.B. 2492, Relating to industrial development corporations created by certain cities and the taxes levied for projects of those corporations.

H.B. 2518, Relating to sales of alcoholic beverages near a child-care facility or a day-care center.

H.B. 2520, Relating to the sale of certain motor fuel; providing criminal and civil penalties.

H.B. 2656, Relating to authorizing a lien for storing aircraft.

H.B. 2662, Relating to the form of a person's name in an indictment.

H.B. 2803, Relating to prohibiting improper utility disconnections in residential tenancies.

H.B. 2861, Relating to the access by a safe house to criminal history record information.

H.B. 2893, Relating to certain insurance benefits and annuity proceeds.

H.B. 2926, Relating to request for proposal purchasing procedures for certain counties.

H.B. 2949, Relating to the use of certain court services and facilities after a change of venue has been ordered in a criminal proceeding.

H.B. 2951, Relating to mechanical or electronic selection of a "special venire" jury panel in a capital case.

H.B. 2952, Relating to the procedure for service of process, notice, or demand on the commissioner of insurance.

H.B. 2987, Relating to the authority of the supreme court to adopt rules relating to the contractual relationship between an attorney and client.

H.B. 3073, Relating to the power of the courts of appeals to issue writs of mandamus.

H.B. 3082, Relating to the creation of, annexation of territory by, and consolidation of drainage districts.

H.B. 3121, Relating to municipal courts of record in Odessa.

H.B. 3185, Relating to travel expenses paid by the Hidalgo County Drainage District No. 1.

H.B. 3197, Relating to recording of proceedings in a county court at law in Liberty County.

H.B. 3198, Relating to the board of directors of the Montgomery County Hospital District.

H.B. 3203, Relating to the election of municipal court of record judges in San Antonio.

H.B. 3214, Relating to the creation of a statutory county court in Bee County.

H.B. 3225, Relating to the creation, administration, powers, duties, operation, and financing of the Pine Island Bayou Stormwater Control District.

H.B. 3227, Relating to creation of the County Court at Law No. 2 of Tom Green County.

H.C.R. 107, Directing the Parks and Wildlife Department to study and recommend alternatives for preserving Sugarloaf Mountain.

The House has concurred in Senate amendments to **H.B. 1336** by a record vote of 133 Ayes, 1 Nay, and 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1647** by a record vote of 135 Ayes, 0 Nays, and 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1664** by a record vote of 130 Ayes, 3 Nays, and 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 475** by a record vote of 131 Ayes, 0 Nays, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 3157** by a record vote of 131 Ayes, 2 Nays, and 1 Present-not voting.

The House has refused to concur in Senate amendments to **H.B. 686** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Hernandez, Chair; Chisum, Romo, Elkins, and Gutierrez.

The House has refused to concur in Senate amendments to **H.B. 815** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Goolsby, Chair; Ogden, Rangel, Junell, and S. Turner.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 776**. The House conferees are: Representatives Saunders, Chair; Chisum, Talton, Junell, and Dukes.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 753**. The House conferees are: Representatives Hartnett, Chair; Allen, Marchant, Thompson, and Wolens.

The House has adopted the conference committee report on **S.B. 114** by a record vote of 132 Ayes, 0 Nays, and 1 Present-not voting.

The House has refused to concur in Senate amendments to **H.B. 1792** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Junell, Chair; Ogden, Rangel, Goolsby, and S. Turner.

S.B. 1190, Relating to the duty of nonprofit, tax-exempt hospitals to provide charity care. (As amended)

S.B. 1154, Relating to the conditional grant program of the Texas Department of Transportation.

S.B. 1633, Relating to requiring the approval of the Texas Transportation Commission before a political subdivision or private entity may construct or finance the construction of a bridge across the Rio Grande.

S.B. 870, Relating to the authority of the consumer credit commissioner and to the regulation of certain consumer credit practices; providing penalties. (As amended)

S.B. 1617, Relating to the Texas Real Estate Investment Trust Act. (As amended)

S.J.R. 51, Proposing a constitutional amendment consolidating general obligation bonding authority for certain agricultural funds. (As substituted)

S.B. 1148, Relating to the retirement system for police officers and firefighters in certain municipalities. (As substituted)

S.B. 626, Relating to certain laws governing water districts and nonprofit water or sewer service corporations; creating penalties; granting authority to issue bonds; granting the power of eminent domain. (As substituted and amended)

H.B. 1805, Relating to the procedures for determining eligibility for parole of a defendant serving a life sentence after conviction of a capital felony.

Cynthia Gerhardt, Chief Clerk
House of Representatives

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of **S.B. 1715**.

S.C.R. 150 by Barrientos State Affairs
Directing that the new boys' dormitory on the campus of the Texas School
for the Deaf be named Koen Hall.

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

S.B. 28	S.B. 927
S.B. 771	S.B. 1125
S.B. 779	S.B. 1126
S.B. 833	

CONCLUSION OF MORNING CALL

The President at 9:42 a.m. announced the conclusion of morning call.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Bivins.

Senator Bivins moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, University of North Texas Board of Regents: JERRY FARRINGTON, Dallas County; LUCILLE GANNON MURCHISON, Dallas County; TOPSY WRIGHT, Dallas County.

Members, Texas State Technical College System Board of Regents: NAT LOPEZ, Cameron County; CHARLES D. OLSON, McLennan County; TOM L. RAGLAND, McLennan County.

Members, Agriculture Resources Protection Authority: LARRY EDWARD SMITH, Knox County; MAX WOODFIN, Travis County.

Members, Antiquities Committee: DR. JAMES E. CORBIN, Nacogdoches County; BETTY N. MURRAY, Cameron County; DR. MARION OETTINGER, JR., Bexar County.

Members, Texas Commission on Fire Protection: DAVID ABERNATHY, Camp County; CHIEF JUAN J. ADAME, Nueces County; CAPTAIN MARVIN G. DAWSON, Terry County; JON M. HUTCHENS, Harris County; CHIEF RONNIE E. JAMES, Wichita County; GILBERT ROBINSON, Galveston County; CAPTAIN RICARDO SALDANA, Hidalgo County; KELLEY MARTIN STALDER, Collin County; CARL DEWAYNE WREN, Travis County.

Justice of the Court of Appeals, Fourteenth Court of Appeals District: JUDGE HARRIET O'NEILL, Harris County.

Members, Texas Board of Nursing Facility Administrators: JOHNNIE LOU AVERY, Howard County; HELEN ANDERSON BEASLEY, Lubbock County; THOMAS WILLIAM GARD, Jefferson County; MERRIL M. GREY, Collin County; CHERYL L. KILLIAN, Tarrant County; JOHNNIE RICHARDSON, Harris County; MICHAEL O. SIMS, McLennan County.

Members, Texas Real Estate Commission: JAY BRUMMETT, Travis County; CHRISTINE T. FOLMER, El Paso County; DEANNA MAYFIELD, Tom Green County.

CAPITOL PHYSICIAN

The President recognized Senator Turner, who presented Dr. Daniel Voss of Georgetown as the "Doctor for the Day."

Dr. Voss, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

SENATE CONCURRENT RESOLUTION 144

Senator Brown offered the following resolution:

S.C.R. 144, Congratulating Clear Lake High School basketball coach Bill Krueger for winning the most basketball games of any high school coach in the country.

BROWN
PATTERSON

The resolution was read.

On motion of Senator Patterson and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brown and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Brown, joined by Senator Patterson, was recognized and introduced to the Senate Coach Bill Krueger and his wife, Martha.

The Senate welcomed its guests.

SENATE RESOLUTION 1010

Senator Patterson, on behalf of Senator Sibley, offered the following resolution:

S.R. 1010, Paying tribute to Colonel and Mrs. Haywood E. Quinn as outstanding citizens of our state and extending to them best wishes and much joy on their forthcoming birthdays and their 51st wedding anniversary.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Patterson, on behalf of Senator Sibley, the resolution was adopted by a rising vote of the Senate.

SENATE BILL 1670 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1670, Relating to the regulation of certain amateur boxing events.

The bill was read second time.

Senator Lucio offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1670** by striking subdivision (1) on page 4, line 26 and replacing it with the following:

(1) an application fee not to exceed \$1000;

Amend **S.B. 1670** by striking subsection (i) on page 5, line 17 and replacing it with the following:

(i) The annual fee for an elimination tournament boxing promoter license shall not exceed \$1000.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1670 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1670** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

SENATE BILL 871 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 871, Relating to the appeal of orders of and civil penalties assessed by the consumer credit commissioner.

The bill was read second time.

Senator Madla offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 871** as follows:

(1) In Section 2 of the bill, proposed Article. 2.03A(e), Title 79, Revised Statutes (introduced version page 3, line 20), strike "The notice may be given by certified mail." and substitute "The notice shall be given by certified mail.".

(2) In Section 2 of the bill, proposed Art. 2.03A(h), Title 79, Revised Statutes (introduced version page 4, line 11) insert between the first and second sentences "The notice shall be given by certified mail."

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 871 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 871** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 770 WITH HOUSE AMENDMENT

Senator Leedom called **S.B. 770** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 770** as follows:

Strike SECTION 2 of the bill and substitute the following:

SECTION 2. Section 51.601, Government Code, is amended to read as follows:

Sec. 51.601. COURT REPORTER SERVICE FEE. (a) The clerk of each court that has an official court reporter shall collect a court reporter service fee of \$15 as a court cost in each civil case filed with the clerk to maintain a court reporter who is available for assignment in the court ~~[in which a record of evidence presented in the case is made by the reporter].~~

(b) The clerk shall collect this fee in the manner provided for other court costs and shall deliver the fee to the county treasurer, or the person who performs the duties of the county treasurer, [deposit the fee to the credit of the general fund] of the county in which the court sits. The county treasurer, or the person who performs the duties of the county treasurer, shall deposit the fees received into the court reporter service fund.

(c) The commissioners court of the county shall administer the court reporter service fund to assist in the payment of court-reporter-related

services, that may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services to comply with state or federal laws, or providing any other service related to the functions of a court reporter.

(d) The commissioners court shall, in administering the court reporter service fund, assist any court in which a case is filed that requires the payment of the court reporter service fee.

(e) [(b)] This section does not apply to an action brought to collect delinquent taxes.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendment to **S.B. 770** by a viva voce vote.

HOUSE BILL 2732 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2732, Relating to the timely filing of alcoholic beverage permits, the activities authorized for the holder of an agent's permit, the storage of certain alcoholic beverage records, and shipment of alcoholic beverages into the state.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 2732** as follows:

(1) Add the following appropriately numbered sections:

SECTION ____ . Section 16.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(2) manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(3) sell wine in this state to holders of wholesaler's permits, winery permits, and wine bottler's permits;

(4) sell wine to ultimate consumers in unbroken packages for off-premises consumption in an amount not to exceed 25,000 gallons annually;

(5) sell the wine outside this state to qualified persons;

(6) blend wines; ~~and~~

(7) dispense free wine for consumption on the winery premises; and

(8) sell, by the drink, wine manufactured and bottled on the winery premises to ultimate consumers for consumption on the winery premises if the premises is in an area where the sale of wine is legal.

SECTION ____ . Section 25.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.01. AUTHORIZED ACTIVITIES. The holder of a wine and beer retailer's permit may sell:

(1) for consumption on or off the premises where sold, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume and not more than 14 percent by volume; and

(2) for consumption on the premises traditional port, madeira, sake, or sherry containing alcohol in excess of one-half of one percent by volume and not more than 24 percent by volume.

SECTION ____ . Sections 251.14(b), (c), (d), and (e), Alcoholic Beverage Code, are amended to read as follows:

(b) In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against one of the following issues:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(9) "The legal sale of wine on the premises of a holder of a winery permit for off-premises consumption only."

(c) In areas where the sale of all alcoholic beverages including mixed beverages has been legalized, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(9) "The legal sale of wine on the premises of a holder of a winery permit for off-premises consumption only."

(d) In areas where the sale of all alcoholic beverages except mixed beverages has been legalized, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory elections:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of wine on the premises of a holder of a winery permit for off-premises consumption only."

(e) In areas where the sale of beverages containing alcohol not in excess of 14 percent by volume has been legalized, and those of higher alcoholic content are prohibited, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of wine on the premises of a holder of a winery permit for off-premises consumption only."

(2) Renumber the remaining sections of the bill appropriately.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 2732 by adding new appropriately numbered SECTIONS as follows and renumbering subsequent sections appropriately:

SECTION __. Subchapter C, Chapter 102, Alcoholic Beverage Code, is amended by adding Section 102.55 to read as follows:

Sec. 102.55. APPLICATION OF TERRITORIAL LIMITS TO LOCAL DISTRIBUTOR'S PERMITTEES. (a) A local distributor's permittee under Chapter 23 who has purchased beer, ale, or malt liquor from the holder of a general, local, or branch distributor's license or from the holder of a general class B wholesaler's or local class B wholesaler's permit may not

deliver the product purchased from such distributor or wholesaler to any mixed beverage or private club permittee whose premises is located outside of the territory assigned to such distributor or wholesaler under a territorial limit agreement authorized by this subchapter.

(b) Except as provided in Subsection (c) of this section, a local distributor's permittee may only purchase beer, ale, or malt liquor from a distributor or wholesaler who has been assigned the territory in which the premises of the local distributor's permit is located.

(c) A local distributor's permittee who delivers beer, ale, or malt liquor to a mixed beverage or private club permittee which is located outside of the assigned territory in which the premises of the local distributor's permit is located must purchase that beer, ale, or malt liquor from the distributor or wholesaler who has been assigned the territory in which the premises of the mixed beverage or private club permittee is located.

SECTION ____ Chapter 102, Alcoholic Beverage Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. LIQUOR INDUSTRY FAIR DEALING LAW

Sec. 102.90. DEFINITIONS. In this subchapter:

(1) "This Act" means this subchapter, which shall be known and may be cited as the Liquor Industry Fair Dealing Law.

(2) "Liquor" has the meaning provided in Section 1.04(5) of this code but shall not include ale or malt liquor.

(3) "Supplier" means a person holding a permit under Section 14.01, 16.01, 18.01, or 37.01 of this code.

(4) "Wholesaler" means a person holding a permit authorizing the purchase of liquor for sale to retailers, but does not include any holder of a local distributor's permit.

(5) "Territory" or "sales territory" means the geographic area of distribution and sales responsibility designated by an agreement between a wholesaler and a supplier, as provided for in Section 102.93 of this code, for any brands of the supplier.

(6) "Brand" or "label" means the name by which any liquor or its logo is known as authorized by its federal label approval including all authorized sizes or configurations authorized for sale within the state.

Sec. 102.92. PURPOSES AND POLICIES. The legislature finds that this subsection is necessary in the public interest of the state and that the public interest is served by the purposes and policies hereinafter stated, all of which is enacted pursuant to the authority granted to the state under the provisions of the Twenty-first Amendment to the United States Constitution:

(1) to prevent unfair business practices, discrimination, and undue control of one segment of the liquor industry by any other segment;

(2) to foster vigorous and healthy competition in the liquor industry;

(3) to promote and keep alive a sound and stable distribution of liquor in this state;

(4) to protect public revenues by facilitating the collection and accountability of state liquor excise taxes; and

(5) to promote the public health, safety, and welfare of the people of the State of Texas.

Sec. 102.93. DESIGNATION OF SALES TERRITORIES AND EXCLUSIVE WHOLESALE DISTRIBUTORS. (a) Every supplier shipping liquor into the state shall submit to the commission one label for each brand of liquor to be shipped into this state and shall designate the sales territories for each of its brands sold in this state and name one wholesaler who shall be the exclusive distributor of the brand within the territory.

(b) Each supplier shall enter into an agreement with one wholesaler in each sales territory, appointing that wholesaler the exclusive wholesaler of the brands to be sold in that territory. Every wholesaler in this state who was handling a brand or label on May 1, 1995, shall be designated by the supplier as the exclusive wholesaler for such brand or label in the sales territory.

(c) Every wholesaler shall file with the commission a copy of each territorial assignment by which the wholesaler was appointed by a supplier as the exclusive wholesaler of the brand handled by the supplier within the territory.

(d) The commission shall initially approve such designations of wholesalers and sales territories, and such designations of wholesalers and sales territories shall not be changed or initially disapproved by the commission.

(e) Any brand or label which is the same as, similar to, or a modification, substitution, upgrade, or extension of a brand or label which has already been registered by a supplier shall be assigned by the supplier to the wholesaler to which the original brand or label was assigned.

Sec. 102.94. UNLAWFUL TRANSACTIONS. (a) No supplier may sell any brand or label of liquor in this state other than to the wholesaler appointed by that supplier as the exclusive wholesaler of that brand or label in an assigned territory.

(b) No wholesaler may sell any liquor in this state to a retailer whose premises is not located within the wholesaler's assigned sales territory unless the wholesaler has been appointed as the exclusive wholesaler of that brand of liquor for the territory in which the sale is made.

(c) Violation of this section shall be grounds for cancellation or suspension of any permit held by the violator.

Sec. 102.95. REQUEST TO CHANGE DESIGNATIONS. (a) Any supplier desiring to change a wholesaler with respect to any brand or to alter the sales territory of an exclusive wholesaler shall file with the commission a wholesaler change request on a form prescribed by the commission which contains the following information:

- (1) the name of each brand involved;
- (2) the case volume in Texas for each brand for the current year or portion thereof and the three previous calendar years;
- (3) the name of the wholesaler currently distributing such brand;
- (4) the name of the proposed new wholesaler; and

(5) a detailed explanation of the specific business reasons for the request to change wholesalers and business reasons which may be considered by the commission in determining good cause for authorizing a change.

(b) At the same time that the change request is filed with the commission, a copy thereof shall be sent by certified mail by the supplier to each wholesaler who may be affected by the proposed changes.

(c) Grounds that the commission may consider in determining good cause for authorizing a change in wholesalers or sales territories are:

(1) a wholesaler's bankruptcy or serious financial instability, including its consistent failure to pay its debts on demand therefor in accordance with agreed payment terms or its failure to meet or maintain any objective standards of capitalization expressly agreed to between the wholesaler and supplier, provided such standards are determined by the commission to be commercially reasonable;

(2) a wholesaler's repeated violation of any provision of federal or state law or regulations or the revocation or suspension of a permit for a period of 30 days or more relating to the business and which materially and adversely affects the wholesaler's ability to continue in business; and

(3) a wholesaler's failure to maintain reasonable sales volume of the brand, taking into consideration such factors as the extent of the supplier's advertising and promotion of the particular brand, sales history by other wholesalers in the state and region, national trends, and prevailing economic conditions affecting sales generally, or the extent of the wholesaler's efforts, or lack thereof, to promote a particular brand.

Sec. 102.96. PROTEST OF CHANGES IN DESIGNATIONS. An appointed exclusive wholesaler adversely affected by a contemplated change in designation shall have the right to protest any proposed alteration of territory or change in the appointment of exclusive wholesaler. Within 90 days after receipt of such notice as required in Section 102.95 of this code, any affected wholesaler may object to the proposed alteration of territory or change in the appointment of an exclusive wholesaler by filing a written objection to the commission. During such 90-day period and until the proposed changes have been finally approved by the commission, the supplier proposing the change shall continue to supply the designated wholesaler, on commercially reasonable terms, such reasonable quantities of the brand involved as the wholesaler may require. If a petition for judicial review is filed pursuant to Section 102.97 of this code, the supplier shall likewise continue to supply the designated wholesaler, on commercially reasonable terms, such reasonable quantities of the brand involved as the wholesaler may require until judgment or order of the court, including appeals, is final.

Sec. 102.97. HEARING. (a) On receipt of a protest by an affected wholesaler or on its own motion, the commission shall, within 60 days, set the matter for hearing for the purpose of determining the truth of any matters of fact alleged by any party and determining whether the proposed changes are based on sufficient cause and are otherwise consistent with the policies set out in Section 102.95 of this code. The hearing shall be conducted in Travis County as a contested case under the provisions of

Chapter 2001, Government Code. Any wholesaler aggrieved by a final decision or order by the commission or administrator is entitled to judicial review in accordance with the provisions of Chapter 2001, Government Code, by filing a petition in a district court of Travis County or a district court in any county within the wholesaler's exclusive sales territory. The judgment of the district court may be appealed by any party as in other civil cases.

(b) If no objection is filed, change of wholesaler shall take effect 90 days from notification. The supplier must purchase from its former wholesaler all brands involved at laid-in cost and remove said inventory to the new wholesaler.

(c) Any manufacturer, shipper, or broker who obtains or acquires in any manner the right to sell, ship, or distribute any brand or label shall for the purpose of this subchapter stand in the place of and be subject to all of the rights, privileges, duties, and obligations of its predecessor or its predecessors from which such brands or labels were obtained or acquired.

Sec. 102.98. EFFECT. The effect of this subchapter may not be varied by contract. Any agreement purporting to do so is void and unenforceable to the extent of such variance.

Sec. 102.99. PROHIBITED CONDUCT. No supplier shall:

(1) induce or coerce or attempt to induce or coerce any wholesaler to engage in any illegal act or course of conduct;

(2) require a wholesaler to assent to any unreasonable requirement, quota, condition, understanding, or term of an agreement prohibiting a wholesaler from selling the product of any other supplier;

(3) fix or maintain the price at which a wholesaler may resell liquor; or

(4) require any wholesaler to accept delivery of any liquor or any other product, including any nonalcoholic product, which shall not have been ordered by the wholesaler.

Sec. 102.991. TRANSFER OF BUSINESS ASSETS OR STOCK. (a) No supplier shall unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a wholesaler or all or any portion of a wholesaler's assets, wholesaler's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only on the wholesaler but also on all other wholesalers of the supplier of the same general class, taking into account the size and location of the sales territory and market to be served. On the death of one of the partners of a partnership operating the business of a wholesaler, no supplier shall deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the supplier and such partnership.

(b) Notwithstanding the provisions of Subsection (a) of this section, on the death of a wholesaler, no supplier shall deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of

a wholesaler, provided that subsequent transfers of such ownership by such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a) of this section.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 2732 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2732** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

(President in Chair)

SENATE BILL 1236 WITH HOUSE AMENDMENT

Senator Armbrister called **S.B. 1236** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **S.B. 1236** as follows:

In SECTION 3 of the bill, strike the date "March 22, 1995" wherever it appears and insert, in lieu thereof, the date "April 11, 1995".

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **S.B. 1236**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

SENATE BILL 1314 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1314, Relating to the regulation and licensing of wholesale motor vehicle auctions.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1314 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1314** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE RESOLUTION 1017

Senator Bivins offered the following resolution:

S.R. 1017, Congratulating Mary Alice Robbins on her 50th birthday and wishing her many more happy birthdays in the future.

BIVINS
MONTFORD

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Bivins, the resolution was adopted by a viva voce vote.

SENATE BILL 1689 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1689, Relating to the appointment of certain officers and employees of the Department of Public Safety.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1689 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Truan in Chair)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 742 ON SECOND READING**

Senator Brown, on behalf of Senator Sims, moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 742, Relating to the office of public interest counsel of the Texas Natural Resource Conservation Commission; providing a penalty.

The motion was lost by the following vote: Yeas 16, Nays 13. (Not receiving two-thirds vote of Members present)

Yeas: Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Luna, Madla, Moncrief, Nelson, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Absent: Armbrister, Montford.

CONFERENCE COMMITTEE ON HOUSE BILL 686

Senator Barrientos called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 686** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **H.B. 686** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chair; Zaffirini, Ellis, Bivins, and Turner.

SENATE BILL 1119 ON SECOND READING

Senator Bivins asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1119, Relating to the application of the doctrine of forum non conveniens.

There was objection.

Senator Bivins then moved to suspend the regular order of business and take up **S.B. 1119** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Brown, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Luna, Rosson, Truan, Turner, West, Whitmire.

The bill was read second time and was passed to engrossment by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Bivins, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Luna, Rosson, Truan, Turner, West, Whitmire.

Absent: Brown, Madla.

(President in Chair)

(Senator Truan in Chair)

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 47 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.J.R. 47, Proposing a constitutional amendment to authorize the voters of certain counties and certain political subdivisions to create a consolidated county government by adopting a charter restructuring the county government and consolidating the political subdivisions.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Lucio, Luna, Moncrief, Montford, Nixon, Patterson, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, Whitmire, Zaffirini.

Nays: Harris, Henderson, Leedom, Madla, Nelson, West.

Absent: Ratliff.

The resolution was read second time.

Senator Wentworth offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **C.S.S.J.R. 47** as follows:

1. On page 1, lines 38 and 39 of the committee printing strike "other than in an area in which a municipality may enact a zoning ordinance." and replace with following in lieu thereof "outside a service area in which the consolidated county government provides its highest level of urban services."

2. On page 3, line 5 of the committee printing insert between "the" and "county" "unincorporated area of the".

The amendment was read and was adopted by a viva voce vote.

The resolution as amended was passed to engrossment by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Lucio, Luna, Moncrief, Montford, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, Whitmire, Zaffirini.

Nays: Harris, Henderson, Leedom, Madla, Nelson, West.

**COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 47 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.J.R. 47 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Lucio, Luna, Moncrief, Montford, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, Whitmire, Zaffirini.

Nays: Harris, Henderson, Leedom, Madla, Nelson, West.

The resolution was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

GUESTS PRESENTED

Senator Sibley was recognized and introduced to the Senate Little Miss Gorman, Mindy Laminack, and Miss Peanut Queen, Kaci Seaton, of Gorman.

The Senate welcomed its guests.

SENATE BILL 901 ON SECOND READING

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 901, Relating to the investments of participants in the optional retirement program for faculty members employed in state-supported institutions of higher education.

The bill was read second time.

Senator Henderson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 901** as follows:

On page 1, line 14 strike the word "may" and substitute the word "shall".

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 901 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 901** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Truan in Chair)

HOUSE BILL 1337 ON SECOND READING

Senator Luna moved to suspend the regular order of business, Senate Rule 5.14(a), and all necessary rules to take up for consideration at this time:

H.B. 1337, Relating to the provision by a public junior college of remedial programs for students enrolled in secondary schools in an independent school district in the junior college's service area.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Armbrister, Leedom, Sims.

Absent: Wentworth.

The bill was read second time.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1337**, page 1 after line 23, by adding subsection (d) to Section 130.090 as follows:

(d) For instances when state funding is provided to both a school district and a public junior college for a student enrolled in courses offered by a junior college under Subsection (a), the commissioner of education and the commissioner of higher education shall jointly develop a mechanism to identify and eliminate duplication of state funding.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1337 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1337** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Armbrister, Leedom, Sims.

Absent: Wentworth.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.C.R. 81
H.C.R. 160
H.B. 1493
H.B. 1743
H.B. 1155
H.B. 356
H.B. 596

HOUSE BILL 1463 ON SECOND READING

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1463, Relating to a lien in favor of a seller of agricultural chemicals, agricultural seeds, or animal feed or of a provider of labor in connection with the agricultural chemicals or agricultural seeds; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1463 ON THIRD READING

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1463** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

SENATE BILL 409 WITH HOUSE AMENDMENT

Senator Ratliff called **S.B. 409** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 409 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the accounting treatment of premium and discount associated with the purchase of certain securities for the permanent school fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.04, Education Code, is amended to read as follows:

Sec. 15.04. TREATMENT OF PREMIUM AND DISCOUNT. (a) If the State Board of Education authorizes the payment of a premium out of the permanent school fund in the purchase of any fixed-income security ~~[bond, obligation, or pledge]~~ as an investment for that fund, then the principal of the security ~~[such securities]~~ and a portion ~~[an amount]~~ of the interest ~~[first]~~ accruing thereon equal to the premium ~~[so paid]~~ shall be treated as principal in such investment as provided by Subsection (c) ~~[;]~~ and ~~[when the first interest is collected, the amount of the premium]~~ shall be returned to the permanent school fund.

(b) If the State Board of Education authorizes the purchase of a fixed-income ~~[public]~~ security at less than par, the discount received in the purchase shall be paid to the available school fund as additional interest revenue as provided by Subsection (c) ~~[when the bonds, obligations, or pledges are paid off and discharged]~~.

(c) The amount of an interest payment treated as principal under Subsection (a) or the amount of a discount treated as additional revenue under Subsection (b) shall be determined at the end of a period using an interest method that produces a periodic interest revenue or expenditure, including amortization, that represents a level effective interest rate on the sum of the maturity value of the fixed-income security and its unamortized premium or discount at the beginning of the period. The difference between the amount computed and the stated interest revenue on the outstanding amount of the fixed-income security is the amount of the periodic amortization.

(d) In this section:

(1) "Effective interest rate" means the interest rate that, when used to discount debt service payments, produces a present value equal to the debt proceeds.

(2) "Fixed-income security" means a government or corporate obligation with a specified maturity date, interest rate, and interest payment dates.

(3) "Stated interest revenue" means the face value or coupon interest rate multiplied by the maturity value of the fixed-income security.

SECTION 2. This Act takes effect September 1, 1995.

SECTION 3. This Act applies to each fixed-income security purchased as an investment for the permanent school fund regardless of the date of purchase.

SECTION 4. Notwithstanding Section 311.025, Government Code, this Act prevails over any revision, recodification, or reenactment of Titles 1 and 2, Education Code, by the 74th Legislature, Regular Session, 1995, including S.B. 1, regardless of the relative dates of enactment.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ratliff and by unanimous consent, the Senate concurred in the House amendment to S.B. 409 by a viva voce vote.

SENATE BILL 415 WITH HOUSE AMENDMENT

Senator Leedom called S.B. 415 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend S.B. 415 as follows:

On page 1 line 14 strike ";

On page 1 line 15 strike "(1)"

On page 1 line 17 strike the word "or" and add ";

On page 1 line 18 delete subsection (b)(2) lines 18 through 23 and on page 2 delete lines 1 through 7

Insert a new subsection (e) to read as follows:

"(e) The provisions of this section shall not affect the right of any party to recover attorney's fees, interest, or costs of court as provided by other law."

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendment to S.B. 415 by a viva voce vote.

(Senator Armbrister in Chair)

SENATE BILL 1070 WITH HOUSE AMENDMENT

Senator Harris called S.B. 1070 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend S.B. 1070 in SECTION 2 of the bill by adding Subsection (c) to amended Section 27, Texas Public Finance Authority Act, to read as follows:

(c) The building shall be known as the Robert E. Johnson Building.

The amendment was read.

Senator Harris moved to concur in the House amendment to **S.B. 1070**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 662 ON THIRD READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

C.S.S.B. 662, Relating to certain agreements for the payment of subcontractors.

The bill was read third time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 662**, as amended on second reading, by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subchapter D, Chapter 35, Business and Commerce Code, is amended by adding Section 35.521 to read as follows:

(a) If a contract or other agreement between an original contractor and a subcontractor contains a provision by which payment from an original contractor to a subcontractor is conditioned on receipt of payment from another person, including an owner for whom an improvement is being made, and the owner has not made payment to the original contractor by the 35th day following the date of the subcontractor's invoice to the original contractor, and accordingly the original contractor has not made payment of such invoice to the subcontractor, then:

(1) the subcontractor can immediately cease providing labor, services or materials required under its contract with the original contractor, without penalty, liability for damages, or any other remedy; and

(2) the subcontractor has a cause of action against the owner for all of the unpaid payments as if it had contracted directly with the owner. The owner shall not be liable to the original contractor for any payments made to the subcontractor under this subsection.

(b) The rights and remedies granted to the subcontractor in this section are in addition to, not in lieu of, any other rights and remedies otherwise available by law; and

(c) In an action brought by the subcontractor under subsection (a)(2), the owner has an affirmative defense of offset for any damages of the owner for any labor, services, or materials furnished by the subcontractor that do not comply with the requirements of the original contract.

(d) In this section:

(1) "Original contractor" means a person who contracts with an owner to improve the owner's real property. It includes a person who performs construction, construction management services, remodeling, repairs, or improvements to the property.

(2) "Owner" means a person who has an interest in real property.

(3) "Subcontractor" means a person who contracts to furnish labor or material to an original contractor or another subcontractor in connection with a contract to improve real property.

(e) Subsection (a) does not apply:

(1) to contracts undertaken by the Texas Department of Transportation; or

(2) to a contract or agreement for the construction of a one to four family dwelling.

SECTION 2. This Act applies only to a contract or other agreement entered into on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 1995.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.S.B. 662 as follows:

Amend Section (a) line 12 by inserting the phrase "that is satisfactorily completed" after the word invoice.

By unanimous consent, the amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, by unanimous consent the amendment as amended was adopted by a viva voce vote.

The bill as again amended was finally passed by a viva voce vote.

RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE ON HOUSE BILL 1792

Senator Bivins called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 1792 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **H.B. 1792** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chair; Montford, Brown, Turner, and Lucio.

SENATE BILL 1703 REREFERRED

On motion of Senator Armbrister and by unanimous consent, **S.B. 1703** was withdrawn from the Committee on Health and Human Services and was rereferred to the Committee on State Affairs.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider **H.B. 2507** today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider **S.B. 1705** today.

CONFERENCE COMMITTEE REPORT ON
SENATE BILL 60

Senator Patterson submitted the following Conference Committee Report:

Austin, Texas
May 10, 1995

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Lancy
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 60** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

PATTERSON
BROWN
ARMBRISTER
SHAPIRO
On the part of the Senate

WILSON
CARTER
ALLEN
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the issuance of a license to carry a concealed handgun; requiring of an applicant for the license a handgun proficiency and safety training course and a criminal background check; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 70, Revised Statutes, is amended by adding Article 4413(29ee) to read as follows:

Art. 4413(29ee). LICENSE TO CARRY A CONCEALED HANDGUN

Sec. 1. DEFINITIONS. In this article:

(1) "Action" means single action, revolver, or semi-automatic action.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) "Concealed handgun" means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

(4) "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not:

(A) the imposition of the sentence is subsequently probated and the person is discharged from community supervision; or

(B) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(5) "Department" means the Department of Public Safety, including employees of the department.

(6) "Director" means the director of the Department of Public Safety or the director's designee.

(7) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

(8) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(9) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(10) "Unsound mind" means the mental condition of a person who:

(A) has been adjudicated mentally incompetent, mentally ill, or not guilty of a criminal offense by reason of insanity;

(B) has been diagnosed by a licensed physician as being characterized by a mental disorder or infirmity that renders the person incapable of managing the person's self or the person's affairs, unless the person furnishes a certificate from a licensed physician stating that the person is no longer disabled or under any medication for the treatment of a mental or psychiatric disorder; or

(C) has been diagnosed by a licensed physician as suffering from depression, manic depression, or post-traumatic stress syndrome, unless the person furnishes a certificate from a licensed physician stating that the person is no longer disabled or under any medication for the treatment of a mental or psychiatric disorder.

Sec. 2. ELIGIBILITY. (a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not a person of unsound mind;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, state treasurer, tax collector of a political subdivision of the state, Texas Alcoholic Beverage Commission, or any other agency or subdivision of the state;

(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;

(13) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, not including a restraining order solely affecting property interests;

(14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 3 of this article or in a request for application submitted pursuant to Section 4 of this article.

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) a felony if the offense is so designated by law or if confinement for one year or more in a penitentiary is affixed to the offense as a possible punishment; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this article. Nothing in this subsection shall preclude the disqualification of an individual for being a chemically dependent person if other evidence exists that the person is a chemically dependent person.

Sec. 3. APPLICATION. (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 5 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 2 of this article; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 2(a) of this article.

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under Chapter 411, Government Code, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history during the preceding five years, if any, of treatment received by, commitment to, or residence in:

(A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state; or

(B) a psychiatric hospital.

(c) The department shall distribute on request a copy of this article and application materials.

Sec. 4. REQUEST FOR APPLICATION MATERIALS. (a) A person applying for a license to carry a concealed handgun must apply by obtaining a request for application materials from a handgun dealer, the department, or any other person or entity approved by the department. This request for application materials shall include the applicant's full name, address, race, sex, height, date of birth, and driver's license number and such other identifying information as may be required by the department by rule. This request shall be in a form prescribed by the department and made available to interested parties by the department. An individual who desires to receive application materials shall complete the request for application materials and forward it to the department at its Austin address. The department shall review all such requests for application materials and make a preliminary determination as to whether or not the individual is qualified to receive a handgun license. If an individual is not disqualified to receive a handgun license, the department shall forward to the individual the appropriate application materials as described in this article. The applicant shall complete the application materials and forward the completed materials to the department at its Austin address.

(b) In the event that a preliminary review indicates that an individual will not be qualified to receive a handgun license, the department shall send written notification to that individual. The notice shall provide the reason that the preliminary review indicates that the individual is not entitled to receive a handgun license. The individual shall be given an opportunity to correct whatever defect may exist.

Sec. 5. REVIEW OF APPLICATION MATERIALS. (a) On receipt of the application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation detailed in Subsection (b) of this section.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application

materials. The scope of the record check and the investigation are at the sole discretion of the department. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued.

Sec. 6. LICENSE. (a) The department shall issue a license to carry a concealed handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department may issue a license to carry handguns only of the categories indicated on the applicant's certificate of proficiency issued under Section 17 of this article. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b)(1) After January 1, 1997, the department, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials, shall:

(A) issue the license; or

(B) notify the applicant in writing that the application was denied:

(i) on the grounds that the applicant failed to qualify under the criteria listed in Section 2 of this article;

(ii) based on the affidavit of the director's designee submitted to the department under Section 5(b) of this article; or

(iii) based on the affidavit of the qualified handgun instructor submitted to the department under Section 17(c) of this article.

(2) Between the effective date of this article and December 31, 1996, the department shall perform the duties set out in this subsection not later than the 90th day after the date of the receipt by the director's designee of the completed application materials.

(c) If the department issues a license, the department shall notify the sheriff of the county in which the license holder resides that a license has been issued to the license holder. On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

(d) A license issued under this article is effective from the date of issuance.

(e) The department by rule shall adopt the form of the license. A license must include:

- (1) a number assigned to the license holder by the department;
- (2) a statement of the period for which the license is effective;
- (3) a statement of the category or categories of handguns the license holder may carry as provided by Subsection (f) of this section;
- (4) a color photograph of the license holder; and
- (5) the license holder's full name, date of birth, residence address, hair and eye color, height, weight, signature, and the number of a driver's license or an identification certificate issued to the license holder by the department.

(f) A category of handguns contains handguns that are not prohibited by law and are of certain actions. The categories of handguns are as follows:

- (1) SA: any handguns, whether semi-automatic or not; and
- (2) NSA: handguns that are not semi-automatic.

(g) On a demand by a magistrate or a peace officer that a license holder display the license holder's handgun license, the license holder shall display both the license and the license holder's driver's license or identification certificate issued by the department.

(h) If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license.

(i) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) or (h) of this section. An offense under this subsection is a Class B misdemeanor.

Sec. 7. NOTIFICATION OF DENIAL, REVOCATION, OR SUSPENSION OF LICENSE; REVIEW. (a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is

not subject to Chapter 2001, Government Code (Administrative Procedure Act). The department may be represented by a district attorney or county attorney, the attorney general, or a designated member of the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after the date that the applicant or license holder requested the hearing. The date of the hearing may be reset on the motion of either party, by agreement of the parties, or by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension was supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension was not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. The department may be represented by a district or county attorney or the attorney general.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice. Failure of the director to issue or deny a license as required under Section 6(b) of this article for a period of more than 30 days after he is required to act under that section constitutes denial.

(h) The department is specifically authorized to utilize and to introduce into evidence certified copies of governmental records to establish the existence of certain events which could result in the denial, revocation, or suspension of a license under this article, including but not limited to records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records which have been properly authenticated.

Sec. 8. NOTICE OF CHANGE OF ADDRESS OR NAME. (a) If a person who is a current license holder moves from the address stated on the license or if the name of the person is changed by marriage or otherwise, the person shall, not later than the 30th day after the date of the address or name change, notify the department and provide the department with the number of the person's license and the person's:

(1) former and new addresses; or

(2) former and new names.

(b) If the name of the license holder is changed by marriage or otherwise, the person shall apply for a duplicate license.

(c) If a license holder moved from the address on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of \$25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) The department shall notify the sheriff of the county in which a license holder resides of a change made under Subsection (a) of this section by the license holder. On request of a local law enforcement agency, the department shall notify the agency of changes made under Subsection (a) of this section by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant shall pay only the nonrefundable renewal fee.

Sec. 9. EXPIRATION. (a) A license issued under this article expires on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance.

(b) A renewed license expires on the license holder's birthdate, four years after the date of the expiration of the previous license.

(c) A duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

Sec. 10. MODIFICATION. (a) To modify a license to allow a license holder to carry a handgun of a different category than the license indicates, the license holder must:

(1) complete a proficiency examination as provided by Section 16(e) of this article;

(2) obtain a handgun proficiency certificate under Section 17 of this article not more than six months before the date of application for a modified license; and

(3) submit to the department:

(A) an application for a modified license on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a modified license fee of \$25; and

(D) two recent color passport photographs of the license holder.

(b) The director by rule shall adopt a modified license application form requiring an update of the information on the original completed application.

(c) The department may modify the license of a license holder who meets all the eligibility requirements and submits all the modification materials. Not later than the 45th day after receipt of the modification materials, the department shall issue the modified license or notify the license holder in writing that the modified license application was denied.

(d) On receipt of a modified license, the license holder shall return the previously issued license to the department.

Sec. 11. RENEWAL. (a) To renew a license, a license holder must:

(1) complete a continuing education course in handgun proficiency under Section 16(c) of this article not more than six months before the date of application for renewal;

(2) obtain a handgun proficiency certificate under Section 17 of this article not more than six months before the date of application for renewal; and

(3) submit to the department:

(A) an application for renewal on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a nonrefundable renewal fee as set by the department; and

(D) two recent color passport photographs of the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application. The director by rule shall set the renewal fee in an amount that is sufficient to cover the actual cost to the department to renew a license. Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license and a renewal form.

(c) The department shall renew the license of a license holder who meets all the eligibility requirements and submits all the renewal materials. Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewal or notify the license holder in writing that the renewal application was denied.

(d) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility criteria may renew a license by mail. The materials for renewal by mail must include a form to be signed and returned to the department by the applicant that describes state law regarding:

(1) the use of deadly force; and

(2) the places where it is unlawful for the holder of a license issued under this article to carry a concealed handgun.

Sec. 12. REVOCATION. (a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;
(2) gave false information on the application;
(3) subsequently becomes ineligible for a license under Section 2 of this article; or

(4) is convicted of an offense under Section 46.035, Penal Code.

(b) If a peace officer believes a reason listed in Subsection (a) of this section to revoke a license exists, the peace officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the peace officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 7 of this article. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation has been entered by the justice court.

(c) A license holder whose license has been revoked for a reason listed in this section may reapply as a new applicant for the issuance of a license under this article after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause of revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for the revocation no longer exists and has not existed for a period of two years.

Sec. 13. SUSPENSION OF LICENSE. (a) A license may be suspended under this section if the license holder:

(1) is convicted of disorderly conduct punishable as a Class C misdemeanor under Section 42.01, Penal Code;

(2) fails to display a license as required by Section 6 of this article;

(3) fails to notify the department of a change of address or name as required by Section 8 of this article;

(4) carries a concealed handgun under the authority of this article of a different category than the license holder is licensed to carry;

(5) has been charged by indictment with the commission of an offense that would make the license holder ineligible for a license on conviction; or

(6) fails to return a previously issued license after a license is modified as required by Section 10(d) of this article.

(b) If any peace officer believes a reason listed in Subsection (a) of this section to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the suspension as provided by Section 7 of this article. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension has been entered by the justice court.

(c) A license may be suspended under this section for not less than one year and not more than three years.

Sec. 14. SEIZURE OF HANDGUN AND LICENSE. (a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this article, the peace officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article 18.19, Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, shall contain the handgun license number of the convicted license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 12(a)(4) of this article.

Sec. 15. LIMITATION OF LIABILITY. (a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor liable for damages caused by:

(1) an action authorized under this article or failure to perform a duty imposed by this article; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this article.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this article.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this article.

(d) The immunities granted above under Subsections (a), (b), and (c) do not apply to acts or failures to act by the state, an agency or subdivision of the state, an officer of the state, or a peace officer when such acts or failures to act were capricious or arbitrary.

Sec. 16. HANDGUN PROFICIENCY REQUIREMENT. (a) The director shall by rule establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a 9-millimeter or .38-caliber handgun. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

(b) A handgun proficiency course must be administered by a qualified handgun instructor and must include at least 10 hours and not more than 15 hours of instruction on:

- (1) the laws that relate to weapons and to the use of deadly force;
- (2) handgun use, proficiency, and safety;
- (3) nonviolent dispute resolution; and
- (4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(c) The department shall by rule develop a continuing education course in handgun proficiency for a license holder who wishes to renew a license. The continuing education course shall be administered by a qualified handgun instructor and must include at least four hours of instruction on one or more of the subjects listed in Subsection (b) of this section and include other information the director determines is appropriate.

(d) The proficiency examination to obtain or to renew a license must be administered by a qualified handgun instructor and must include:

- (1) a written section on the subjects listed in Subsection (b) of this section; and

- (2) a physical demonstration of proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(e) The proficiency examination to modify a license must be administered by a qualified handgun instructor and must include a physical demonstration of the proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain or renew a license to carry a concealed handgun shall apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency, demonstrate handgun proficiency, and obtain a handgun proficiency certificate as described by Section 17 of this article.

(h) A license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates shall apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency to obtain a handgun proficiency certificate in that category as described by Section 17 of this article.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor. A qualified handgun instructor shall make available for inspection to the department any and all records maintained by a qualified handgun instructor under this article. The qualified handgun instructor shall keep a record of all certificates of handgun proficiency issued by the qualified handgun instructor and other information required by the department by rule.

(j) The department shall conduct a study to determine the effectiveness and feasibility of allowing an applicant to take a written competency examination administered by a qualified handgun instructor in lieu of attending the classroom instruction required under this section as part of the handgun proficiency course. The department shall report the findings of the study to the legislature not later than January 31, 1997.

Sec. 17. HANDGUN PROFICIENCY CERTIFICATE. (a) The department shall develop a sequentially numbered handgun proficiency certificate and distribute the certificate to qualified handgun instructors who administer the handgun proficiency examination described in Section 16 of this article. The department by rule may set a fee not to exceed \$5 to cover the costs of the certificates.

(b) If a person successfully completes the proficiency requirements as described in Section 16 of this article, the instructor shall endorse a certificate of handgun proficiency provided by the department. An applicant must successfully complete both classroom and range instruction to receive a certificate. The certificate must indicate the category of any handgun for which the applicant demonstrated proficiency during the examination.

(c) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts

that lead the instructor to believe that an applicant is not qualified for handgun proficiency certification.

Sec. 18. QUALIFIED HANDGUN INSTRUCTORS. (a) The director may certify as a qualified handgun instructor a person who:

(1) is certified by the Commission on Law Enforcement Officer Standards and Education or the Texas Board of Private Investigators and Private Security Agencies to instruct others in the use of handguns;

(2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or

(3) is certified by the National Rifle Association of America as a handgun instructor.

(b) In addition to the qualifications described by Subsection (a) of this section, a qualified handgun instructor must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) The department shall provide training to an individual who applies for certification as a qualified handgun instructor. An applicant shall pay a fee of \$100 to the department for the training. An applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall waive the requirements regarding a handgun proficiency certification under Section 17 of this article for an applicant for a license to carry a concealed handgun who takes and successfully completes training under this subsection and pays the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor must pay a fee of \$100 and take and successfully complete the retraining courses required by rule of the department.

(e) After certification, a qualified handgun instructor may conduct training for applicants for a license under this article.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's certification as a qualified handgun instructor regardless of whether the person has a license issued under this article to carry a concealed handgun.

Sec. 19. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR. The procedures for the review of a denial, revocation, or suspension of a

license under Section 7 of this article apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor. The notice provisions of this article relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or applicant therefor.

Sec. 20. CONFIDENTIALITY OF RECORDS. The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this article. The department shall, on written request and payment of a reasonable fee to cover costs of copying, disclose to any other individual whether a named individual or any individual whose full name is listed on a specified written list is licensed under this article. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. Except as otherwise provided by this section and by Section 21 of this article, all other records maintained under this article are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552, Government Code, except that the applicant or license holder may be furnished a copy of such disclosable records on request and the payment of a reasonable fee. The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the person or agency making the request. Nothing in this section shall prevent the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department.

Sec. 21. STATISTICAL REPORT. The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

Sec. 22. RULES. The director shall adopt rules to administer this article.

Sec. 23. FUNDS. The department shall forward the fees collected under this article to the comptroller of public accounts. The comptroller shall deposit the fees to the credit of an account in the general revenue fund to be known as the concealed handgun license account. The legislature may appropriate funds from the account only for the purpose of paying the costs of the department in implementing this article. At the end of each fiscal year, the comptroller shall transfer the excess funds in the account to the state treasury to the credit of the crime victims compensation fund.

Sec. 24. NOTICE. (a) For the purpose of a notice required by this article, the department may assume that the address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this article if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

Sec. 25. METHOD OF PAYMENT. A person may pay a fee required by this article only by cashier's check, money order made payable to the "Texas Department of Public Safety," or any other method approved by the department. A fee received by the department under this article is nonrefundable.

Sec. 26. LICENSE A BENEFIT. The issuance of a license under this article is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section 1.07, Penal Code, applies.

Sec. 27. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE. (a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations.

(b) It is a defense to prosecution under Section 46.035, Penal Code, that the actor, at the time of the commission of the offense, was the holder of an alias license issued under this section.

Sec. 28. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this article on retirement. The application must be made not later than the first anniversary after the date of retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. The statement shall include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and
- (7) a recommendation from the agency head regarding the issuance of a license under this article.

(c) The department may issue a license under this article to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

- (1) did not retire in lieu of any disciplinary action;
- (2) was employed as a full-time peace officer for not less than 10 years by one agency; and
- (3) is entitled to receive a pension or annuity for service as a law enforcement officer.

(d) An applicant under this section shall pay a fee of \$25 for a license issued under this article.

(e) A retired peace officer who obtains a license under this article must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 415.035, Government Code. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 9 of this article.

(g) A retired criminal investigator of the United States who is designated as a "special agent" is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

- (1) retirement credentials; and
- (2) a letter from the agency head stating the applicant retired in good standing.

Sec. 29. APPLICATION TO LICENSED SECURITY OFFICERS. This article does not exempt a license holder who is also employed as a security officer and licensed under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) from the duty to comply with that Act or Section 46.02, Penal Code.

Sec. 30. ACTIVE AND RETIRED JUDICIAL OFFICERS. (a) In this section:

(1) "Active judicial officer" means a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

(2) "Retired judicial officer" means:

(A) a special judge appointed under Section 26.023 or 26.024, Government Code; or

(B) a senior judge designated under Section 75.001, Government Code, or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001, Government Code.

(b) Notwithstanding any other provision of this article, the department shall issue a license under this article to an active or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this article. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this article if the officer:

- (1) has not been convicted of a felony;
- (2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor;
- (3) is not charged with the commission of a Class A or Class B misdemeanor or of a felony under an information or indictment;
- (4) is not a chemically dependent person; and
- (5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application on a form prescribed by the department;

(2) two recent color passport photographs of the applicant;

(3) a handgun proficiency certificate issued to the applicant as evidence that the applicant successfully completed the proficiency requirements of this article;

(4) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a concealed handgun under this article; and

(5) if the applicant is a retired judicial officer:

(A) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and

(B) a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this article.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a concealed handgun under the authority of this article; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a concealed handgun under the authority of this article.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section 16 of this article. The classroom instruction part of the proficiency course for an active judicial officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

(1) handgun use, proficiency, and safety; and

(2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section 9 of this article and, except as otherwise provided by this

subsection, may be renewed in accordance with Section 11 of this article. An active judicial officer is not required to attend the classroom instruction part of the continuing education proficiency course to renew a license.

(h) The department shall issue a license to carry a concealed handgun under the authority of this article to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this article for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.

Sec. 31. NOTICE REQUIRED ON CERTAIN PREMISES. (a) A business that has a permit or license issued under Chapter 25, 28, 32, or 69, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c) of this section.

(b) A hospital licensed under Chapter 241, Health and Safety Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) of this section.

(c) The sign required under Subsections (a) and (b) of this section must give notice in both English and Spanish that it is unlawful to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and shall be displayed in a conspicuous manner clearly visible to the public.

Sec. 32. RIGHTS OF EMPLOYERS. This article does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this article from carrying a concealed handgun on the premises of the business.

Sec. 33. REDUCTION OF FEES DUE TO INDIGENCY. (a) Notwithstanding any other provision of this article, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this article if the department determines that the applicant is indigent.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

Sec. 34. REDUCTION OF FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this article, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, or modified license under this article if the applicant for the license is 60 years of age or older.

Sec. 35. RECIPROCAL LICENSE. On application by a person who has a valid license to carry a concealed handgun issued by another state,

the department may issue to the person a license under this article without requiring that the person meet eligibility requirements or pay fees otherwise imposed under this article, but only if the department determines that:

(1) the eligibility requirements imposed by the other state are at least as rigorous as the requirements imposed by this article; and

(2) the other state provides reciprocal licensing privileges to a person who holds a license issued under this article and applies for a license in the other state.

Sec. 36. AUTHORITY OF A PEACE OFFICER TO DISARM. A peace officer who is acting in the lawful discharge of the officer's official duties is authorized to disarm a license holder at any time when the peace officer reasonably believes it is necessary for the protection of the license holder, peace officer, or other individuals. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene when the peace officer has determined that the license holder is not a threat to the peace officer, license holder, or other individuals, and providing that the license holder has not violated any provision of this Act, or has not committed any other violation that results in the arrest of the license holder.

SECTION 2. Subsection (b), Section 46.02, Penal Code, is amended to read as follows:

(b) It is a defense to prosecution under this section that the actor was, at the time of the commission of the offense:

(1) in the actual discharge of his official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event he must comply with Subdivision (5);

(3) traveling;

(4) engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or was directly en route between the premises and the actor's residence, if the weapon is a type commonly used in the activity;

(5) a person who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;

(B) he is wearing a distinctive uniform; and

(C) the weapon is in plain view; [or]

(6) a peace officer, other than a person commissioned by the Texas State Board of Pharmacy; or

(7) carrying a concealed handgun and a valid license issued under Article 4413(29ee), Revised Statutes, to carry a concealed handgun of the same category as the handgun the person is carrying.

SECTION 3. Subsection (f), Section 46.03, Penal Code, is amended to read as follows:

(f) It is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

(g) An offense under this section is a third degree felony.

SECTION 4. Chapter 46, Penal Code, is amended by adding Section 46.035 to read as follows:

Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER. (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Article 4413(29ee), Revised Statutes, and intentionally fails to conceal the handgun.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, or 69, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed, at any meeting of a governmental entity.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed.

(e) A license holder who is licensed as a security officer under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Article 4413(29ee), Revised Statutes.

(f) In this section:

(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than 1 million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(2) "License holder" means a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes.

(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(g) An offense under Subsection (a), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of deadly force under Chapter 9.

SECTION 5. Section 51.16, Family Code, is amended by adding Subsection (m) to read as follows:

(m) On request of the Department of Public Safety, a juvenile court shall reopen and allow the department to inspect the files and records of the juvenile court relating to an applicant for a license to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

SECTION 6. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.047 to read as follows:

Sec. 411.047. REPORTING RELATED TO CONCEALED HANDGUN INCIDENTS. (a) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes, is arrested for an offense under Section 46.035, Penal Code, or discharges a handgun.

(b) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

SECTION 7. Section 215.001(b), Local Government Code, is amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms within the limits of the municipality;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation; or

(6) regulate the carrying of a firearm by a person other than a person licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes, at a:

- (A) public park;
- (B) public meeting of a municipality, county, or other governmental body;
- (C) political rally, parade, or official political meeting; or
- (D) nonfirearms-related school, college, or professional athletic event.

SECTION 8. (a) This Act takes effect September 1, 1995, except that a license issued under this Act before January 1, 1996, is not effective until January 1, 1996. A license issued before January 1, 1996, shall be clearly marked to reflect the date on which it becomes effective, and the director of the Department of Public Safety shall inform each recipient of a license before that date that the license is not effective until that date.

(b) Notwithstanding Subsection (a), Section 9, Article 4413(29ee), Revised Statutes, as added by this Act, the Department of Public Safety by rule may adopt a system to implement staggered and evenly distributed license expiration dates over the four-year period beginning January 1, 1996. The department may not issue a license that is effective for less than two years. A license that is effective for less than four years and is renewed expires as provided by Subsection (b), Section 9, Article 4413(29ee), Revised Statutes, as added by this Act. Notwithstanding Subdivision (6), Subsection (a), Section 3, Article 4413(29ee), Revised Statutes, as added by this Act, the department by rule shall prorate the nonrefundable application and license fee for applicants who receive licenses that are effective for less than four years under this subsection.

SECTION 9. The Department of Public Safety shall adopt the rules and establish the procedures required by Section 411.047, Government Code, as added by Section 6 of this Act, not later than January 1, 1996.

SECTION 10. An offense committed before January 1, 1996, is covered by the law in effect when the offense is committed, and the former law is continued in effect for this purpose.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

MEMORIAL RESOLUTION

S.R. 1021 - By Montford: In memory of Aaron Donelson of Big Spring.

CONGRATULATORY RESOLUTIONS

S.R. 1011 - By Wentworth: Congratulating Major Randy Pullen on his new assignment with the Reserve Component PA, HQ, United States Army Pacific at Fort Shafter, Hawaii.

S.R. 1013 - By Nelson: Recognizing Elizabeth Morrison for her 16 years as a schoolteacher with the Lewisville Independent School District and her 33 years in the field of education.

S.R. 1014 - By Nelson: Recognizing the DeSoto West Junior High School Band on being named recipient of the Sudler Cup Award by the John Philip Sousa Foundation.

S.R. 1015 - By Nelson: Recognizing the courage and kindness shown by Weldon Barber and Nyna Shante Johnson of Flower Mound in coming to the aid of another in distress.

S.R. 1016 - By Gallegos: Recognizing Sylvia Ann Medina for earning a graduate degree from the College of Education at the University of Houston.

S.R. 1018 - By Barrientos: Proclaiming May 13, 1995, "Ground Combat Readiness Center Day" and commending the men and women of the Bergstrom Air Reserve Station.

S.R. 1019 - By West: Recognizing the Dallas Branch of the National Association for the Advancement of Colored People on the occasion of its 25th Freedom Fund Banquet.

S.R. 1020 - By Montford: Congratulating Arrie Dell Rodgers Walker on the occasion of her 90th birthday.

S.R. 1022 - By Patterson: Commending Rollins Environmental Services (TX), Incorporated, for its contribution to ensuring the protection and safety of all Texans.

H.C.R. 71 - (Ellis): Commending United States Representative Michael A. Andrews for his service to the Congress of the United States.

ADJOURNMENT

On motion of Senator Truan, the Senate at 11:47 a.m. adjourned until 9:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 10, 1995

ADMINISTRATION — H.C.R. 44, H.B. 1271 (Amended)

FINANCE — C.S.S.B. 101

NATURAL RESOURCES — S.B. 1709, S.B. 1639, H.B. 2875, H.B. 2505, H.B. 3075, H.B. 2245, H.B. 1381, H.B. 344, H.B. 1957, S.B. 1704 (Amended), C.S.H.B. 2587, C.S.H.B. 280

ECONOMIC DEVELOPMENT — S.B. 1694 (Amended), C.S.S.B. 1398, C.S.S.B. 1696, C.S.H.B. 2128

INTERGOVERNMENTAL RELATIONS — C.S.H.B. 2078, H.B. 160 (Amended), H.B. 2069 (Amended), H.B. 2696, C.S.H.B. 814, H.B. 1559, C.S.S.B. 1253, H.B. 2943 (Amended), H.B. 1770 (Amended), H.B. 2687, H.B. 2168 (Amended), H.B. 3061, H.B. 1824, H.B. 635, S.B. 1705, H.B. 2842, H.B. 1899, C.S.S.B. 879

SENT TO GOVERNOR

(May 10, 1995)

S.B. 28

S.B. 771

S.B. 779

S.B. 833

S.B. 927

S.B. 1125

S.B. 1126

SIXTY-NINTH DAY

(Thursday, May 11, 1995)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Nicholas M. Ibarra, Chaplain, Brackenridge and St. David's hospitals, Austin, offered the invocation as follows:

Almighty and ever-living God, You are the fountain and source of all power. We humbly pray You to direct the thoughts, words,